

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the

United States Courts
Southern District of Texas
FILED

OCT 28 2022

Gabriel Martinez
Petitioner

v.

Case No. _____

Nathan Ochsner, Clerk of Court

(Supplied by Clerk of Court)

SHERIFF ERIC FAGAN
Respondent

(name of warden or authorized person having custody of petitioner)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Gabriel Martinez
- (b) Other names you have used: _____
2. Place of confinement:
 - (a) Name of institution: Fort Bend County Jail / Detention Center
 - (b) Address: 1410 Richmond Parkway, Richmond Texas 77469
- (c) Your identification number: P# 00013071
3. Are you currently being held on orders by:

☐ Federal authorities
 ☒ State authorities
 ☐ Other - explain: _____
4. Are you currently:

☒ A pretrial detainee (waiting for trial on criminal charges)

☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime

If you are currently serving a sentence, provide:

 - (a) Name and location of court that sentenced you: _____
 - (b) Docket number of criminal case: 21 DCR 097408, 21 DCR 097409
 - (c) Date of sentencing: _____

☐ Being held on an immigration charge

☐ Other (explain): _____

Decision or Action You Are Challenging

5. What are you challenging in this petition:

☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

- ☒ Pretrial detention
☐ Immigration detention
☐ Detainer
☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
☐ Disciplinary proceedings
☐ Other (explain): _____

6. Provide more information about the decision or action you are challenging:

- (a) Name and location of the agency or court: I challenge the fact I am being confined before trial. I challenge the length of confinement.
 (b) Docket number, case number, or opinion number: 21DCR 097408, 21DCR 097409
 (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):
I challenge my confinement without the privilege of trial. I challenge the extended period of confinement as it is the equivalent of a punishment or sentence without trial.
 (d) Date of the decision or action: _____

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☒ Yes ☐ No

(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: 1st Court of Appeals
 (2) Date of filing: _____
 (3) Docket number, case number, or opinion number: NO. 01-22-00540, 01-22-0541
 (4) Result: Dismissed for want of Jurisdiction
 (5) Date of result: Aug 16, 2022
 (6) Issues raised: Petition for Habeas Corpus / EXCESSIVE BAIL AMOUNTS / PRETRIAL DETENTION & Presumed Innocence

(b) If you answered "No," explain why you did not appeal: _____

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☒ Yes ☐ No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: Court of Appeals of Texas(2) Date of filing: 08/31/2022(3) Docket number, case number, or opinion number: WR-94,112-01

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: Pre Trial Detention, EXCESSIVE BOND AMMOUNTS.

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: _____

State RemedyI have exhausted10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes☒ No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes☒ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

☐ Yes☒ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: _____

- (b) Date of the removal or reinstatement order: _____

- (c) Did you file an appeal with the Board of Immigration Appeals? _____

☐ Yes☒ No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

If "Yes," provide:

(1) Date of filing: _____

(2) Case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes☒ No

If "Yes," provide:

(1) Name of court: _____

(2) Date of filing: _____

(3) Case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

12. Other appeals

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes☒ No

If "Yes," provide:

(a) Kind of petition, motion, or application: _____

(b) Name of the authority, agency, or court: _____

(c) Date of filing: _____

(d) Docket number, case number, or opinion number: _____

(e) Result: _____

(f) Date of result: _____

(g) Issues raised: _____

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: I am restrained in my liberties.

(a) Supporting facts (Be brief. Do not cite cases or law.):

I am innocent and being confined without the benefit of fair trial.

(b) Did you present Ground One in all appeals that were available to you?

☒ Yes

☐ No

GROUND TWO: The two \$150,000.00 bonds are excessive and oppressive.

(a) Supporting facts (Be brief. Do not cite cases or law.):

I can not receive a fair trial from inside jail, this is widely known and understood. I am mentally impaired and normally live on disability check below poverty I am poor. Now I have nothing and am innocent. This was done to me before and the system let them do it now they are trying again. I cant afford \$10,000.00 much less \$300,000.00.

(b) Did you present Ground Two in all appeals that were available to you?

☒ Yes

☐ No

GROUND THREE: Because of my incarceration my disability checks were stopped.

(a) Supporting facts (Be brief. Do not cite cases or law.):

This is and amounts to punishment and reduces my ability to retain effective counsel and secure a fair trial.

(b) Did you present Ground Three in all appeals that were available to you?

☒ Yes

☒ No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

GROUND FOUR:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: I need a P.R. Bond so I can get out
get my checks turned back on so I can hire a good Attorney and
Speacialists. IF I cant get a P.R Bond I need \$500.00 bonds
So my sister can get me out.

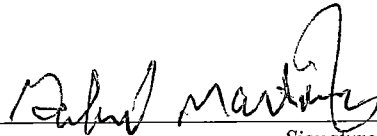
AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 10/25/2022



Signature of Petitioner

Signature of Attorney or other authorized person, if any



United States Courts
Southern District of Texas
FILED

OCT 28 2022

Nathan Ochsenrider, Clerk of Court

~~UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
POST OFFICE BOX 61010
HOUSTON, TEXAS 77208~~

Gabriel Martinez #00013071
1410 Richmond Parkway
Richmond, Texas 77469

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
POST OFFICE BOX 61010

Houston, Texas

77208